IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 29114 of 2007(N)

OS.302/2005 of MUNSIFF COURT, OTTAPPALAM
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PETITIONER:

S.SURESH KUMAR, S/O.SEENIAPPA THEVAR,
M/S. RAJALEKSHMI MATCH WORKS,
MEENAMPATTI, SIVAKASI TALUK.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

ALIKUTTY,S/O.ABIKAL INSAMDULLAH,
PROPRIETOR ABIKAL MATCH WORKS,
KURUVATTUR, OTTAPALAM.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.29114 OF 2007

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Dated this the 3rd day of October 2007

JUDGMENT

This writ petition is filed to modify Ext.P1 order. It was an application for setting aside the ex parte decree. The court below allowed the application, but imposed a condition that the defendant should remit half of the amount of decree within 30 days from the date of order and pay a cost of Rs.1,000/- to the plaintiff for his suffering. I am informed that the cost of Rs.1,000/- had already been paid. Now the only grievance is that the court should not have imposed a condition to deposit half of the decree amount. When an ex parte decree is set aside the matter is left wide open and what is to be protected is the interest of the plaintiff, if he gets a decree. This can be achieved by directing the defendant to furnish security for half of the amount which is decreed ex parte subject to the satisfaction of the court. Therefore the order under challenge is modified to that extent and the writ petitioner is given six weeks further time to furnish security for half of

the amount ordered to be deposited.

Writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

Cdp/-